

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

EDWARD GENE SMITH,

Defendant.

AFFIRMATION

Case No. 1:25-cr-00004(PAE)

ROBERT C. GOTTLIEB, an attorney duly admitted to practice law in the State of New York and the Southern District of New York, hereby affirms under penalties of perjury as follows:

1. I am managing partner at the law firm Robert C. Gottlieb & Associates PLLC, the attorneys for the defendant, Edward Gene Smith, and as such I am fully familiar with the facts and circumstances of this case.

2. I submit this Affirmation, and the other documents attached to the moving papers in support of Mr. Smith's Motion to Suppress his Interrogation Statements.

3. Attached hereto as ***Exhibit A*** is a copy the U.S. Department of Justice Federal Bureau of Investigation Crime Scene Sign-In Log.

4. Attached hereto as ***Exhibit B*** is a copy of the March 6, 2025 Affidavit of Edward Smith.

5. Attached hereto as ***Exhibit C*** is a copy of the Recorded Interrogation of Edward Smith 001.

6. Attached hereto as ***Exhibit D*** is a copy of the Recorded Interrogation of Edward Smith 002.

7. Attached hereto as ***Exhibit E*** is a copy of the 2nd Circuit September 14, 2020 decision in *United States v. Whitaker*, 827 Fed.Appx. 39, 42 (2d Cir. 2020).

8. Attached hereto as ***Exhibit F*** is a copy of the FBI Body Camera Footage USAO_APO_0000466_2024-06-26T10.00.24.425Z_246.

9. Attached hereto as ***Exhibit G*** is a copy of the FBI Body Camera Footage USAO_APO_0000467_2024-06-26T10.00.26.635Z_244.

10. The relevant legal arguments are set forth in the attached Memorandum of Law.

11. Based on the arguments submitted in the attached Memorandum of Law, we respectfully request this Court grant the defendant's motion to suppress his statements made in violation of *Miranda*. In the alternative, the Court should hold a hearing to fully ascertain the facts concerning this due process violation.

Dated: New York, New York
March 6, 2025


Robert C. Gottlieb, Esq.